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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of) MM Docket No. 99-25 ✓
)
Creation of a Low Power Radio Service) RM-9208
) RM-9242
)
TO: The Full Commission

COMMENTS AND COUNTERPROPOSAL OF JAMES W. LAWSON

James W. Lawson ("Lawson"), by his attorney, hereby respectfully comments in opposition to the Commission's proposal to create two classes of low power radio service in the FM band. Additionally, Lawson opposes the Commission's proposal to establish a third "microradio" class of low power radio service. Instead, Lawson respectfully counterproposes that the Commission amend its rules and regulations to make existing AM broadcasters eligible to apply for and obtain licenses for FM translator stations to be used to simulcast such broadcaster's AM stations within the service area of such AM stations. In support of the counterproposal, Lawson alleges as follows:

I. The Interest of James W. Lawson in this Proceeding:

1. James W. Lawson is an African-American, born February 6, 1945, at Birmingham, Alabama. Lawson graduated from high school in 1962 and, thereafter, attended Moorehouse College and University of Alabama. While attending these educational institutions, Mr. Lawson began working in the broadcasting industry, first as an announcer for AM Broadcast Station WEUP,

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Huntsville, Alabama, and later as a newsman at Station WAOK(AM), Atlanta, Georgia. Lawson's broadcasting career was briefly interrupted during the years 1965-1968, when he served as a signal officer in the U.S. Army in Vietnam. In 1968, however, Lawson was honorably discharged from the Army and resumed his broadcasting career. He was employed at Station WJLD(AM), Birmingham, Alabama, as an announcer and, ultimately, as program director. In the 1970's, Lawson became employed at WSGN(AM), Birmingham, Alabama. In 1978, he began working at Station WENN(FM) in Birmingham as program director. In 1980, he became part owner of AM Broadcast Station WBUL, Birmingham, Alabama. In 1985, he went back to work for Station WJLD and later worked for Station WMGJ(AM), Gadsden, Alabama. In 1990, Lawson became a consultant to WNPT(FM), Linden, Alabama.

2. In the Fall of 1992, Lawson entered into contracts to purchase an AM broadcast station at Tuscaloosa, Alabama, and an FM broadcast station at Eutaw, Alabama, a community situated about 25 miles from Tuscaloosa. These were installment payment contracts. However, Lawson is proud that, through hard work and dedication, he has paid the full purchase price for the FM station and burned the mortgage. Furthermore, he has practically paid for the AM station and currently owes only a small amount on the promissory note which he originally signed to buy that station.

3. In short, James W. Lawson is an American success story. He started with very little, but the broadcasting industry has been kind to him and he now owns two stations of his own. Lawson is, however, very concerned with the LPFM proposals set forth in the Commission's Notice of Proposed Rule Making. These proposals, if adopted, threaten to put Lawson out of business.

II. The Impact of LPFM on Existing African-American Broadcasters:

4. The Commission recently revised its ownership reporting form (FCC Form 323) to require broadcasters to identify their race and gender. When the results of these new reports are tabulated, the Commission may be surprised to find that a disproportionately large number of AM broadcast stations are owned by African-Americans, i.e., that the percentage of AM broadcast stations owned by African-Americans significantly exceeds the percentage of Americans who are of African descent. There is a reason for this: Until recently, African-Americans did not possess the capital resources which would enable them to purchase FM broadcast stations. Particularly, since the enactment of the Telecommunications Act of 1996, the price of FM stations has escalated to the point where independent businessmen, Black or White, can seldom afford to own one. But many African-Americans, like Lawson, have found themselves able to acquire AM stations.

5. African-American owners of AM broadcast stations face a terrible dilemma. The African-American audience was the first significant audience to move from AM to FM and they have never moved back. To attract Black listeners, Lawson has had to develop a niche. He programs his AM station with talk, specifically directed to the needs and interests of the African-American community in Tuscaloosa. Even so, there is a constant struggle to maintain a significant audience in the face of competition of urban format stations operating in the FM band.

6. The implementation of a number of new LPFM stations in the Tuscaloosa area would have a devastating effect on Lawson's AM operations. Under the terms of the Commission's proposal, Lawson, himself, would be excluded from applying for a low power FM station; thus, any new LPFM stations will be his direct competitors. To the extent that these stations might adopt urban formats or, even worse, talk formats directed to the needs of the African-American community, Lawson's AM audience would be further fragmented to the point where it would

become even more difficult to bring in the advertising revenues that are needed to make the station viable.

7. Wholly aside from the question of audience, however, the impact of these new LPFM stations on the availability of radio revenues would likewise be devastating. It really makes no difference whether the Commission treats these new stations as non-commercial or commercial. In recent years, the rules and policies pertaining to non-commercial stations has been modified to such an extent that, as a practical matter, there is very little difference between the two classes of facilities. Through public service grants, non-commercial stations can and do compete directly with commercial stations for the available advertising revenues in any particular market.

8. In Tuscaloosa, as in other radio markets, the amount of advertising revenues available is finite. Newspapers, cable systems, television systems, and radio stations compete for those finite dollars. To the extent that any particular medium succeeds in attracting additional advertising dollars, those dollars are subtracted from the amount that is available to the competing media.

9. In Tuscaloosa, as in other markets throughout the U.S., a majority of the stations are now owned by national chains. In fact, Lawson's station is one of only three which are still locally owned. Because of their vast economic power and the economies of operation which they can achieve, the national chains may be able to survive the competitive effects flowing from the implementation of a large number of new LPFM stations. Independent local broadcasters, e.g., Lawson, cannot. They have to struggle everyday just to bring in enough revenues to meet operating expenses and pay the rent or mortgage. It makes no sense to award a number of licenses for new LPFM stations where the effect of such awards is to severely degrade the value and viability of

existing broadcast stations. This is particularly so in the case of stations, such as those owned by Lawson, which represent the life work and life savings of their owners.

III. Additional Matters:

10. Lawson's FM station in Eutaw, Alabama, is situated too far from Tuscaloosa to deliver a good signal to that community. Lawson is fortunate, however, that a local translator operator carries the signal of the Eutaw FM station in Tuscaloosa.

11. Under the terms of the proposal in this proceeding, however, new LPFM stations could "bump" translators. Thus, to add insult to injury, Lawson could easily face devastating competition from newly authorized LPFM stations, while at the same time, losing his ability to deliver a viable FM channel in Tuscaloosa.

12. In the past, the FCC has often spoken of the need to save the AM broadcasting service. One thing that the Commission could do which would be enormously helpful to existing AM broadcasters is to allow such broadcasters to own and operate FM translator stations which would simulcast the programming of their AM stations at suitable locations within the primary service area of such stations.

13. Lawson affirmatively urges the Commission to expand the scope of this proceeding and to adopt rules which would allow existing AM broadcasters to apply for and obtain FM translator licenses to be used specifically to simulcast their existing AM programming. Lawson urges the Commission not to implement a low power FM service. If, however, the FCC is determined to do so, Lawson urges that small, independent broadcasters, such as himself, be declared

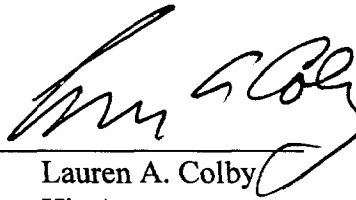
eligible to apply for LPFM licenses.

Respectfully submitted,

March 23, 1999

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